

FILED**APRIL 5, 2007**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**JUDGE PALLMEYER**
MAGISTRATE JUDGE VALDEZVIVIANA MALDONADO and JORGE)
RODRIGUEZ, individually, and as co-)
special administrators and co-special)
representatives of the estate of Stephanie)
Rodriguez,)

Plaintiffs,)

v.)

MOUNT SINAI HOSPITAL MEDICAL)
CENTER OF CHICAGO; ADVENTIST)
HEALTH SYSTEM MIDWEST REGION)
FOUNDATION MARISSA T. CARMODY,)
M.D.; IBRAHIM DOGAN, M.D.; CLARA)
LOPEZ, R.N.; and SORROCO MORENO,)
R.N.,)

Defendants.)

Formerly Case No. 05 L 1091, Circuit Court
of Cook County, Illinois.MOUNT SINAI HOSPITAL MEDICAL)
CENTER OF CHICAGO, IBRAHIM)
DOGAN, M.D.; CLARA LOPEZ, R.N.; and)
SORROCO MORENO, R.N.,)

Third-Party Plaintiffs,)

v.)

ACCESS COMMUNITY HEALTH)
NETWORK, d/b/a HAWTHORNE)
FAMILY HEALTH CENTER; MARLENE)
GREEN, M.D.)

Third-Party Defendants.)

NOTICE OF REMOVAL OF A CIVIL ACTIONTO: Dorothy A. Brown, Clerk
Circuit Court of Cook County
Room 801 Richard J. Daley Center
50 W. Washington Street
Chicago, Illinois 60602William D. Nolen
Anderson, Rasor & Partners, LLP
55 E. Monroe St., Suite 3650
Chicago, Illinois 60603**07 C 1889****WAH**

The United States of America, by its attorney, Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, pursuant to 28 U.S.C. § 2679(d)(2) and 42 U.S.C. § 233, submits this notice of removal of the above-captioned civil action from the Circuit Court of Cook County, Illinois, County Department, Law Division, to the United States District Court for the Northern District of Illinois, and in support thereof, states the following

1. On February 28, 2007, Third Party Plaintiffs commenced the above civil action against Access Community Health Network d/b/a Hawthorne Family Health Center and Marlene Green, M.D., alleging a proportionate share of liability for plaintiff's injuries. Copies of all process, pleadings and orders served upon the third party defendants are attached pursuant to 28 U.S.C. § 1446(a) as Exhibit A.

2. This notice of removal is filed in accordance with 28 U.S.C. § 2679(d) and 42 U.S.C. § 233, upon certification by the designee of the Attorney General of the United States, that the third party defendants were acting within the scope of their employment as federal government employees at the time of the incident out of which the claim arose. *See* Certification attached as Exhibit B.

3. Notice of removal may be filed without bond at any time before trial. 28 U.S.C. § 2679(d)(2). Trial has not yet been had in this action.

4. Pursuant to the Certification by the Attorney General's designee and the filing of this notice of removal, this civil action shall be deemed an action against the United States under 28 U.S.C. § 2679 and 42 U.S.C. § 233, and the United States shall be substituted as the party third party defendants in lieu of Access Community Health Network d/b/a Hawthorne Family Health Center and Marlene Green, M.D.

WHEREFORE, this action now pending in the Circuit Court of Cook County, Illinois is properly removed to this court pursuant to 28 U.S.C. § 2679(d) and 42 U.S.C. § 233, and the United States is substituted as defendant in lieu of Access Community Health Network d/b/a Hawthorne Family Health Center and Marlene Green, M.D.

Respectfully submitted,

PATRICK J. FITZGERALD

United States Attorney

By: Eileen M. Marutzky

EILEEN M. MARUTZKY

Assistant United States Attorney

219 South Dearborn Street

Chicago, Illinois 60604

(312) 353-1998

CERTIFICATE OF SERVICE

Eileen M. Marutzky hereby certifies that on April 5, 2007, she caused a copy of: **NOTICE OF REMOVAL OF A CIVIL ACTION** to be placed in a postage-paid envelope addressed to the following named individual(s) and deposited in the United States mail in the United States Courthouse, Chicago, Illinois.

TO: Dorothy A. Brown, Clerk
Circuit Court of Cook County
Room 801 Richard J. Daley Center
50 W. Washington Street
Chicago, Illinois 60602

William D. Nolen
Anderson, Rasor & Partners, LLP
55 E. Monroe St., Suite 3650
Chicago, Illinois 60603



EILEEN M. MARUTZKY
Assistant United States Attorney

FILED

FEB 28 2007
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISIONVIVIANA MALDONADO and JORGE RODRIGUEZ,
Individually and as Co-Special Administrators and
Co-Special Representatives of the Estate of
STEPHANIE RODRIGUEZ, Deceased,

Plaintiffs

vs.

MOUNT SINAI HOSPITAL MEDICAL CENTER
OF CHICAGO; ADVENTIST HEALTH SYSTEM
MIDWEST REGION FOUNDATION MARISSA T.
CARMODY, M.D.; IBRAHIM DOGAN, M.D.;
CLARA LOPEZ, R.N.; and SORROCO
MORENO, R.N.,

Defendants

NO. 05 L 1091
Calendar ACLERK
OF THE COURT
OF COOK
COUNTY, ILLINOIS
LAW DIVISIONFILED-2
2007 FEB 28 AM 8:59MOUNT SINAI HOSPITAL MEDICAL CENTER
OF CHICAGO IBRAHIM DOGAN, M.D.; CLARA
LOPEZ, R.N.; and SORROCO MORENO, R.N.,

Third Party Plaintiffs

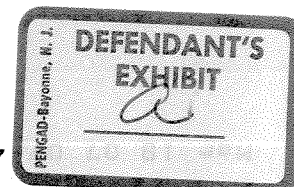
vs.

ACCESS COMMUNITY HEALTH NETWORK,
d/b/a HAWTHORNE FAMILY HEALTH
CENTER; MARLENE GREEN, M.D.

Third Party Defendants

FIRST AMENDED THIRD PARTY COMPLAINT FOR CONTRIBUTION

NOW COME, the defendants/third-party plaintiffs, MOUNT SINAI HOSPITAL
AND MEDICAL CENTER, and its employees and agents, by its attorneys, ANDERSON,
RASOR & PARTNERS, LLP, and for their Third-Party Complaint for Contribution against



third-party defendants, ACCESS COMMUNITY HEALTH NETWORK, d/b/a HAWTHORNE FAMILY HEALTH CENTER and MARLENE GREEN, M.D. state as follows:

1. That on or about January 28, 2005, the plaintiffs filed a Complaint at Law alleging negligence against Mount Sinai Hospital and Medical Center, Adventist Health System, Marissa Carmody, M.D., Ibrahim Dogan, M.D., Clara Lopez, R.N., Socorro (sic) Moreno, R.N., Access Community Health Network, d/b/a Hawthorne Family Health Center, and Marlene O. Green, M.D. (See copy of Complaint attached as Exhibit 1.)
2. That on January 29, 2007, the plaintiffs filed an Amended Complaint at Law, removing Dr. Marlene Green and the Access Community Health Network d/b/a Hawthorne Family Health Center as defendants, but adding the allegations that Dr. Green was an agent of Mount Sinai Hospital Medical Center. (See Amended Complaint attached as Exhibit 2.)
3. That the plaintiffs have alleged, inter alia, that on or about May 7, 2004, these defendants/third-party plaintiffs were negligent in the provision of care to Viviana Maldonado and Stephanie Rodriguez during labor and delivery.
4. That these defendants have denied, and continue to deny the allegations in plaintiff's Complaint and Amended Complaint.
5. That on or about May, 2004, The Access Community Health Network, d/b/a Hawthorne Family Health Center, was a clinic funded by the Federal Government for the provision of health care services to indigent people in under-served communities.
6. That at all times relevant hereto, Marlene O. Green was an employee, agent, or servant of the Federal Government while working in her capacity as a physician providing medical care and services to the patients of Access Community Health Network d/b/a Hawthorne Family Health Center.

7. That on or about September, 2003, through and including May, 2004, Viviana Maldonado was a patient of the Access Community Health Network, d/b/a Hawthorne Family Health Center, for purposes of receiving pre-natal care.

8. That on or about May 6, 2004, Viviana Maldonado was admitted to Mount Sinai Hospital Medical Center for the purpose of delivering her baby.

9. That on May 6, 2004, through the night to May 7, 2004, Dr. Marlene Green was the attending obstetrician provided by Access Community Health Network, d/b/a Hawthorne Family Health Center to Mount Sinai Hospital and Medical Center to carry out the responsibilities of an attending physician in the Department of Obstetrics and Gynecology in the provision of care and treatment to patients of the Access Clinic.

10. That on the night of May 6, 2004, through to the morning of May 7, 2004, Dr. Green carried out her responsibilities as the attending obstetrician on the obstetrical service and provided medical care to Viviana Maldonado and Stephanie Rodriguez.

11. That at all relevant times, Dr. Green was acting within the scope of her employment with the Federal Government in the fulfillment of her duties as the attending obstetrician at Mount Sinai Hospital while providing care and treatment to Viviana Maldonado and Stephanie Rodriguez.

12. That Mount Sinai Hospital and Medical Center acknowledges that at all relevant times Dr. Green complied with the standard of care applicable to reasonably well-qualified obstetricians practicing in the Chicago area.

13. That Mount Sinai Hospital and Medical Center further acknowledges that there was no negligent action or omission by Dr. Green that caused or contributed to cause any of the plaintiff's claimed injuries.

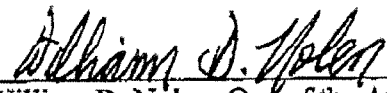
14. That these defendants/third-party plaintiffs bring this action for contribution pursuant to 735 ILCS 5/13-204.

15. That this action is premised on the condition that if the conduct of Mount Sinai Hospital Medical Center or its agents, apparent agents or employees is found, by a jury, to be negligent, the third-party defendants shall be ordered to contribute that percentage share attributable to them.

WHEREFORE, the defendants/third-party plaintiffs MOUNT SINAI HOSPITAL MEDICAL CENTER, et. al., prays that if judgment is entered against it, its agents, servants or employees, third-party defendant ACCESS COMMUNITY HEALTH NETWORK, d/b/a HAWTHORNE FAMILY HEALTH CENTER and MARLENE GREEN, M.D., be ordered to contribute toward any such judgment and pay plaintiffs the amount of that percentage of fault or negligence in monetary damages found attributable to them or to their employees, agents or servants, of the common liability.

ANDERSON, RASOR & PARTNERS, LLP

By:

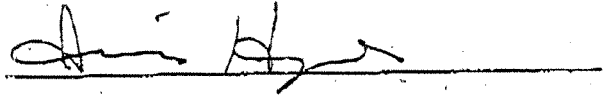


William D. Nolen, One of the Attorneys for
Defendant, MOUNT SINAI HOSPITAL
MEDICAL CENTER

William D. Nolen
ANDERSON, RASOR & PARTNERS, LLP
55 East Monroe Street
Suite 3650
Chicago, Illinois 60603
(312) 673-7814
Attorney I.D. 41529

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

IRINA HYNES, being first duly sworn, on oath states that she served the foregoing FIRST AMENDED THIRD-PARTY COMPLAINT FOR CONTRIBUTION upon the attorneys of record (see attached service list) by enclosing a true and correct copy thereof in a properly addressed and sealed envelope, first class postage prepaid, and by depositing same in the U. S. Mail located at 55 East Monroe Street, Chicago, Illinois 60603, before the hour of 5:00 p.m. on this 13th day of February, 2007.



SUBSCRIBED AND SWORN TO
before me this 13th day of February,
2007.

Barbara C. Megginson
Notary Public


"OFFICIAL SEAL"

BARBARA C. MEGGINSON
Notary Public, State of Illinois
My Commission Expires 01/09/09

ANDERSON, RASOR & PARTNERS, LLP
55 East Monroe Street
Suite 3650
Chicago, Illinois 60603
(312) 673-7814 (William D. Nolen)
I.D. #41529

CERTIFICATION

Pursuant to the provisions of 42 U.S.C. § 233, and by virtue of the authority delegated to me by the Attorney General under 28 C.F.R. § 15.4 and through the United States Attorney for the Northern District of Illinois, I hereby certify that I have read the First Amended Third Party Complaint for Contribution in *Viviana Maldonado, et al. v. Mount Sinai Hospital Medical Center, et al.*, No. 2005 L 1091 (Circuit Court of Cook County, Illinois), and all attachments thereto. On the basis of the information now available, I find that at the relevant times, the Access Community Health Network d/b/a Hawthorne Family Health Center was a private entity receiving grant money from the Public Health Service pursuant to 42 U.S.C. § 233. Further, I certify that Marlene Green, M.D., was acting within the scope of her employment at the Access Community Health Network d/b/a Hawthorne Family Health Center with respect to the incidents referred to in the complaint. Accordingly, for purposes of the above case, the Access Community Health Network d/b/a Hawthorne Family Health Center and Marlene Green, M.D., are deemed to be employees of the United States pursuant to 42 U.S.C. § 233, for Federal Tort Claims Act purposes only.



THOMAS P. WALSH
Chief, Civil Division
Office of the United States Attorney
for the Northern District of Illinois

Date: April 5, 2007

